

ENTERED

November 19, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

CURTIS WAYNE ADAMS,

Petitioner,

VS.

WARDEN, FCI THREE RIVERS,

Respondent.

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CIVIL ACTION NO. 2:24-CV-00186

**MEMORANDUM AND RECOMMENDATION TO DISMISS
CASE FOR FAILURE TO PROSECUTE**

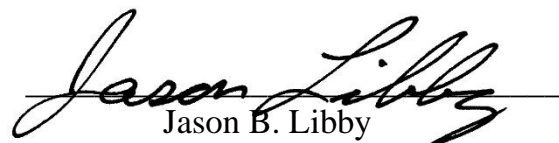
Petitioner filed this habeas corpus petition pursuant to 28 U.S.C. § 2241 on July 23, 2024. The U.S. District Clerk notified Petitioner his pleading was deficient for failure to pay the filing fee or, alternatively, for failing to file an application to proceed *in forma pauperis* (“IFP”). (D.E. 5). On September 17, 2024, Petitioner was directed by the undersigned to either pay the filing fee or to file a certified copy of his inmate trust fund statement and an application to proceed IFP. (D.E. 7). Petitioner was directed to comply by October 17, 2024, and notified that failure to comply may result in his case being dismissed for want of prosecution. (D.E. 7); Fed. R. Civ. P. 41(b). Petitioner did not comply.

On October 15, 2024, both the Clerk’s Notice and the undersigned’s September 17, 2024, Order were returned as undeliverable because Petitioner failed to update his current mailing address. (D.E. 10 and D.E. 11). Therefore, also on October 15, 2024, the

undersigned independently located Petitioner's current mailing address and requested the Clerk to re-notice the filings that were returned as undeliverable and to update the docket. Further, the undersigned entered another Order on October 28, 2024, directing Plaintiff to either pay the filing fee or to file a certified copy of his inmate trust fund statement and application to proceed IFP on or before November 12, 2024. (D.E. 12). Petitioner was again warned that failure to comply may result in his case being dismissed for want of prosecution. (D.E. 12); Fed. R. Civ. P. 41(b). Petitioner has failed to comply. A search of the Federal Bureau of Prisons website lists Petitioner's address as the same as it was when the undersigned previously requested the Clerk update Petitioner's address. <https://www.bop.gov/inmateloc> (last visited November 19, 2024).

Therefore, it is respectfully recommended that Petitioner's case be **DISMISSED** pursuant to Fed.R.Civ.P. 41(b); *see also Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (holding district courts have the power to *sua sponte* dismiss a cause of action for failure to prosecute).

Respectfully submitted on November 19, 2024.


Jason B. Libby
United States Magistrate Judge

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within **FOURTEEN (14) DAYS** after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to Fed. R. Civ. P. 72(b), 28 U.S.C. § 636(b)(1), General Order No. 2002-13, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within FOURTEEN (14) DAYS after being served with a copy shall bar that party, except upon grounds of *plain error*, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).